IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1318 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE RAVI R.TRIPATHI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

PRAVINBHAI RAMJIBHAI PATEL

Versus

DY COLLECTOR

Appearance:

MR MP PRAJAPATI for Petitioner No. 1

Mr.K.M. Parikh, ASSTT GOVERNMENT PLEADER for Respondent No. 1-3

CORAM : MR.JUSTICE RAVI R.TRIPATHI

Date of decision: 21/09/2001

ORAL JUDGEMENT

Rule. Service of rule is waived by Shri Parikh, learned Assistant Government Pleader.

2. With the consent of both the learned advocates the petition is taken up for final disposal today. This

petition arises from the adjudication with regard to valuation of the property under Bombay Stamp Act, 1958 (hereinafter referred to as "the Act") in respect of sale document by which the petitioner purchased the property in question, i.e. an old immovable property admeasuring 65.54.30 sq. meters situated in the sim of of Palanpur City which is described in detail in the document. The valuation placed by the authority under the Act on the aforesaid property has resulted in an increase in stamp duty payable by the petitioner as also penalty by virtue of the provisions of sec.32A of the Act.

3. Deputy Collector (Stamp Duty Valuation), District Banaskantha, Palanpur issued show cause notice calling upon the petitioner to show cause why the deficit stamp duty should not be recovered from the petitioner and why the market value placed by the Deputy Collector on the property in question should not be determined for the properties in question and as to why additional stamp duty should not be recovered as mentioned in the show cause notice dated 19.5.1995. The petitioner filed replies dated 6.11.1985 and 7.11.1995 to the said show cause notice, copies of which are produced at Annexure 'C'. However, Deputy Collector, Banaskanatha (Stamp Duty Valuation) passed the impugned order dated 11.9.1997 a copy of which is at annexure 'E' to the petition. The petitioner preferred appeal against the same before the Chief Controlling Revenue Authority, respondent no.2, who confirmed the order passed by the Deputy Collector. Hence this petition is filed by the present petitioner.

4. Mr.Prajapati, learned advocate appearing for the petitioner submitted that a similar question was considered by this Court (Coram : M.S. Shah, J.) in Special Civil Application No.9762 of 2000 with Special Civil Applications No.100005 to 10017 of 2000. The same were decided by judgement dated 7.8.2001. For the reasons recorded in the said judgement the present petition is allowed. As the Court has not gone into merits of the controversy between the parties, Deputy Collector is directed to decide the matter afresh, after issuing notice to the party and extending him an opportunity of hearing.

5. Amount of additional stamp duty deposited by the petitioner with the Deputy Collector for the purpose of filing appeal before the Chief Controlling Revenue Authority shall abide by the outcome of the proceedings pursuant to the order of remand.

6. The petition stands disposed of with the above

directions. Rule is made absolute with no order as to costs.

(Ravi R. Tripathi, J.)

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